

Jack Kendall
680 W. 26th St.
Bayonne, New Jersey 07002

RE: NPRM 11-169: BASIC SERVICE TIER ENCRYPTION COMPATIBILITY BETWEEN CABLE SYSTEMS AND CONSUMER ELECTRONICS EQUIPMENT

Dear FCC Chairman and Commissioners:

I am a cable TV subscriber and I strongly OPPOSE the proposed NPRM 11-169 which would specifically allow cable operators to encrypt the basic tier of their subscription television service. There are numerous reasons such an overturn of long-standing law should not be permitted under any circumstance.

From NPRM 11-169: In the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), Congress recognized that compatibility problems between cable service and consumer electronics equipment were limiting and/or precluding the operation of premium features of consumer equipment and were affecting the ability of consumer equipment to receive cable programming. Section 624A of the Act¹ was added by Section 17 of the 1992 Cable Act to address this issue. Specifically, **Section 624A requires the Commission to issue regulations to assure compatibility between consumer electronics equipment and cable systems.**

The FCC's current "tentative conclusion" that "allowing cable operators to encrypt the basic service tier in all-digital systems will not substantially affect compatibility between cable service and consumer electronics equipment for most subscribers" is flawed for two significant reasons:

1. The FCC has to issue policy based on ALL involved parties, which includes cable subscribers WITH AND WITHOUT set-top boxes. Obviously this is because even those subscribers WITH set-top boxes will be negatively affected should they wish to utilize a secondary cable TV outlet without utilizing a set-top box.
2. This proposal is absolutely contrary to present law, Section 624A, because the proposal would almost immediately render obsolete millions of television QAM tuners, external QAM tuners, and any other consumer device capable of receiving QAM signals.

From NPRM 11-169: In 1994, the Commission implemented the requirements of Section 624A.3 As part of that implementation, the Commission added Section 76.630(a) to its rules. Section 76.630(a) prohibits cable operators from scrambling or encrypting signals carried on the basic tier of service. The Commission determined that this rule would significantly advance compatibility by ensuring that all subscribers would be able to receive basic tier signals "in the clear" and that basic-only subscribers with cable-ready televisions would not need set-top boxes.

Essentially, the FCC in 1994 reinforced sound policy established by the 1992 Cable Act. Specifically, that consumer electronics equipment and cable systems **MUST BE COMPATIBLE**. **There is nothing archaic about ensuring compatibility.** It should also be noted that in and around 1994, most cable companies apparently defined basic-only packages as containing not only broadcast and public-access channels, but also pay TV channels like CNN, Discovery Channel, Disney Channel, ESPN, Lifetime, MTV, Nickelodeon, USA Network, Comedy Central, and many others. Most cable systems carried these channels in-the-clear, further enhancing goodwill with their subscribers while strictly adhering to the FCC's consumer-friendly and well established policy. **However, once Pay Cable companies were permitted extraordinary leeway by the FCC to compete with Telephone companies by providing both internet and telephone services, slowly this goodwill was pushed aside and the available channels on secondary equipment without a set-top box and for economically disenfranchised subscribers were gradually removed behind the encryption iron wall.**

RE: NPRM 11-169: BASIC SERVICE TIER ENCRYPTION COMPATIBILITY BETWEEN CABLE

SYSTEMS AND CONSUMER ELECTRONICS EQUIPMENT (Page 2)

Again, NPRM 11-169 would almost immediately render obsolete consumer electronics equipment, most of which would be no older than six years old, based on when the FCC mandated inclusion of ATSC-QAM capable tuners on all consumer receivers.

The FCC admits in the NPRM that “We (FCC) do not know how many subscribers fall into this group (digital cable subscribers who use television sets or devices with QAM tuners, but without CableCARDS), but **based on the Cablevision Report discussed below, we expect it to be small.**”

Cablevision strongly supports NPRM 11-169, and as such is likely to only present evidence which supports its position. ***Has the FCC conducted an independent study? Isn't such an undertaking more than worthwhile when contemplating an action that will disenfranchise millions of cable subscribers? Especially considering that the FCC concedes they are unaware how many subscribers will be negatively affected?*** With all due respect, the FCC has to issue policy for the benefit of ALL United States citizens, not just those employed by Cablevision or an alternate pay TV provider and/or their attorneys and/or lobbyists.

Cablevision's report suggests: “Cablevision has more than 700,000 subscribers in New York City and that it deployed 739 free set-top boxes to basic service tier subscribers as a condition of its basic service tier encryption waiver; this represents one tenth of one percent of Cablevision's subscribers in New York City”

The FCC must not establish nationwide policy based upon one unique situation in one unique city. This should be obvious and straightforward, but if the FCC doesn't recognize this as an erroneous method to implement policy, it must then consider the following:

- 1.The Cablevision report is very generalized and does not break down New York City borough by borough, neighborhood by neighborhood;
- 2.The report does not specify the individual circumstances and terms of these free STB deployments;
- 3.New York City is a completely unique market with it's own economy. The economical conditions in NYC do not necessarily reflect those in other cities, counties, and communities throughout the United States.

NPRM 11-169 IS POOR ECONOMIC POLICY. One of the aims of its proponents is that full encryption will “eliminate the need for many service appointments”. First, it is unnecessary for a subscriber appointment to disconnect cable TV service. Most disconnects are performed at the drop site, typically on a utility pole. Second, and most importantly, **this change would ultimately result in fewer service technicians which means HIGHER UNEMPLOYMENT!**

NPRM 11-169 IS ALSO POOR ENVIRONMENTAL POLICY. As a consequence of the short-sighted NPRM 11-169, it is likely that hundreds of thousands of tons of formerly compatible consumer electronics equipment will eventually and ultimately be trashed to the landfill. Some of this equipment contains minute poisonous substances that, while miniscule in a single unit, would become cumbersome in a landfill, creating an eventual potentially significant environmental hazard.

Finally, Cablevision's short-term solutions (free/reduced STB for one or two years) to ameliorate financial hardship to its affected subscribers fall perilously short to those individuals long-term economic situations. Subscribers who reside in areas not well served by OTA TV and rely on a cable TV company to provide these signals will find themselves in financial hardship once the trial period is over. It also does not address the needs of disabled individuals and senior citizens for whom this change will present severe hardship and interruption.

RE: NPRM 11-169: BASIC SERVICE TIER ENCRYPTION COMPATIBILITY BETWEEN CABLE

SYSTEMS AND CONSUMER ELECTRONICS EQUIPMENT (Page 3)

Consumers should have multiple cost-effective options already available in the marketplace if such a change was to be permitted. **There are presently no viable options for consumers except to continue renting outdated technologies from cable providers.** Cablevision's proposal to encrypt basic tier does not address this fact in any way. Therefore, NPRM 11-169 is both premature and supportive of monopoly-style economics.

In summary, NPRM 11-169 benefits one group and one group only: Pay TV providers. **NPRM 11-169 realizes NO BENEFITS WHATSOEVER TO CABLE TV SUBSCRIBERS.** This will financially enrich a few owners of these systems, while presenting immediate and eventual financial harm to their employees and subscribers. The conditions which the major cable operators have agreed to in order to minimize these ramifications (such as one year of free set-top box rental) are not extraordinary to their request. They are policies which cable companies have implemented for many years which present no long-term financial or service benefits to the subscribers. The cable companies continue to maintain complete control over and ownership of their converters and how their subscribers can use them. NPRM 11-169 contains no incentives for this monopoly situation to be ended anytime soon and effectively discourages free-market competition.

The FCC must not ignore long-standing sound laws and policies established by its predecessor esteemed commissioners who passed those laws keeping citizens in mind, and not just a few special interest groups.

Respectfully submitted for consideration and for the public record.

<http://apps.fcc.gov/ecfs/upload/display?z=8p7o7>